HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 3176 OF 2001

BETWEEN

Dasari Venkateswarlu @ Eshwara Prabhu & another

.....**Petitioners**

And

Government of India
Rep. by its Secretary,
Ministry of Home Affairs,
New Delhi & others

.....**Respondents**

:: O R D E R::

Counsel for the Petitioners : Shri M. Rajamalla Reddy

Counsel for Respondent Nos.1 to 4 : Shri A. Rajasekhar Reddy

Dated: 29.08.2006

In this petition, the petitioners have made the following substantive prayer:

" It is therefore necessary in the interests of

justice that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction declaring the inaction of the respondents herein in not incorporating the name of the 2nd petitioner, who is wife of 1st petitioner as the nominee of the 1st petitioner to receive his freedom fighters pension after his death as illegal, arbitrary, unreasonable, violative of various letters issued by the Ministry of Home Affairs, Government of India and also violative of fundamental rights guaranteed under Articles 14, 21 and 300-A of the Constitution of India and issue a consequential direction to the respondents to incorporate the name of the 2nd petitioner, who is the wife of 1st petitioner as the nominee of the 1st petitioner to receive his freedom fighters pension after his death."

A perusal of the record shows that petitioner No.1 was sanctioned freedom fighters pension under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme') on 06.07.1994. His wife Dasari Venkata Narasamma died on 14.04.19093 and he is said to have married petitioner No.2 on 22.01.1996. After second marriage, he made representation dated 04.11.1996 to respondent No.3 for inclusion of the name of petitioner No.2 as a nominee who may be entitled to receive pension under the 1980 Scheme after his demise. He sent reminders to the respondents for taking appropriate decision on his representation, but no order was passed by the concerned authority.

The grievance of the petitioners is that despite lapse of over four years, the competent authority has not passed appropriate order for inclusion of the name of petitioner No.2 as a nominee who may be ultimately entitled to receive pension after the demise of

petitioner No.1.

I have heard learned counsel for the parties and perused the record. I have also gone through the 1980 Scheme. In my opinion, the writ petition is liable to be dismissed as premature because there is no provision in the 1980 Scheme for acceptance of nomination for the purpose of payment of freedom fighters pension. In terms of paragraphs 2 and 3 of the Scheme framed by the Government of India, the wife becomes entitled to pension under the 1980 Scheme only if the freedom fighter is not alive. Since petitioner No.1 was alive on the date of making application for inclusion of the name of petitioner No.2 in the list of nominees, there was no question of entertaining his request at that stage. If death of petitioner No.1 precedes that of petitioner No.2, then the latter may become entitled to claim pension under the 1980 Scheme.

With the above observations, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.4031 of 2001 filed by the petitioners for interim relief is also dismissed.

G.S.SINGHVI, CJ

ksld
29.08.2006